

SOLICITATION, OFFER, AND AWARD
(Construction, Alteration, or Repair)

OMB No. 1505-0081
Expiration Date: 4/30/94

1. SOLICITATION NO. 52SBNB7C1113	2. TYPE OF SOLICITATION [] SEALED BID (IFB) [X] NEGOTIATED (RFP)	3. DATE ISSUED 05/27/97
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IMPORTANT-The "Offer" section on pages 2 and 3 must be fully completed by offeror.

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO. 351-8125	6. PROJECT NO.
7. ISSUED BY CODE National Inst. of Stds. & Technolog Acquisition and Assistance Division Building 301, Room B117 Gaithersburg, MD 20899		8. ADDRESS OFFER TO National Inst. of Stds. & Tech. Building 301, Room B117 Gaithersburg, MD 20899 C\$CONSTANT-RETURN-ADD-4
9. FOR INFORMATION CALL	A. NAME Joan M. Smith	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) (301) 975-6458

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

The Contractor shall provide services to design and construct (Design-Build) a project to dredge, areate, an landscape two ponds at the National Institute of Standards and Technology, Gaithersburg, MD site, in accordance with Section C, Specifications.

Price Range: Between \$1,000,000 and \$5,000,000

11. The Contractor shall begin performance within _____ calendar days and complete it within _____ calendar days after receiving [X] award [] notice to proceed. This performance period is [X] mandatory [] negotiable. (See Section F, Clause F.2).

EXCEPTION TO STANDARD FORM 1442 (REV.4-85)

Prescribed by GSA
FAR(48 CFR) 53.236-1(e)

SOLICITATION, OFFER, AND AWARD
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12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES" indicate within how many calendar days after award in Item 12B.)
[X] YES [] NO

12B. CALENDAR DAYS

See Pg.7,C.2

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 2 copies to perform the work required are due at the place specified in Item 8 by 3:00 p.m. (hour) local time 06/27/97 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee [] is, [X] is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 90 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

14. NAME AND ADDRESS OF OFFEROR
(Include ZIP Code)

15. TELEPHONE NO. (Include area code)

16. REMITTANCE ADDRESS (Include only if different than Item 14)

CODE FACILITY CODE

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)

AMOUNTS

EXCEPTION TO STANDARD FORM 1442 (REV.4-85)

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18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

AMENDMENT NO.										
DATE										
20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20B. SIGNATURE					20C. OFFER DATE				

AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
24. SUBMIT INVOICES TO ADDRESS SHOWN IN ITEM _____ (4 copies unless otherwise specified)	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO: [] 10 USC 2304(c) () [] 41 USC 253(c) ()
26. ADMINISTERED BY CODE _____	27. PAYMENT WILL BE MADE BY

EXCEPTION TO STANDARD FORM 1442 (REV.4-85)

SOLICITATION, OFFER, AND AWARD
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CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

[] 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.

[] 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)		31A. NAME OF CONTRACTING OFFICER (Type or print)	
30B. SIGNATURE	30C. DATE	31B. UNITED STATES OF AMERICA BY _____	31C. AWARD DATE

EXCEPTION TO STANDARD FORM 1442 (REV.4-85)

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PART I - THE SCHEDULE

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

Item No.	Supplies/Services	Qty	Unit	Amount
0001	The Contractor shall provide services to design and construct (design-build) a project to dredge, areate, and landscape two ponds at the NIST Gaithersburg, MD site, in accordance with all requirements herein.			
0001A	Design for the dredging, areating, and landscaping.	1	Job	\$_____
0001B	Perform the dredging, aerating, and landscaping.	1	Job	\$_____
OPTION I				
0002	The Contractor shall provide services to design and construct (design-build) fountains for the two ponds at the NIST Gaithersburg, MD site, in accordance with all requirements herein.			
0002A	Design for the fountains.	1	Job	\$_____
0002B	Construction of the fountains.	1	Job	\$_____
OPTION II				
0003	The Contractor shall provide services to design and construct (design-build) a pond tree border for the two ponds at the NIST Gaithersburg, MD site, in accordance with all requirements herein.			

0003A	Design for the pond tree border.	1	Job	\$_____
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0003B	Planting of the pond tree border.	1	Job	\$_____
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OPTION III

0004	The Contractor shall provide services for the design and construction (design-build) of stream bank stabilization and restoration for the existing ponds east of East Drive at the NIST Gaithersburg, MD site, in accordance with all requirements herein.			
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0004A	Design for the stream bank stabilization and restoration.	1	Job	\$_____
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0004B	Construction of the stream bank stabilization and restoration.	1	Job	\$_____
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OPTION IV

0005	The Contractor shall provide services for the CONSTRUCTION ONLY of the storm water management pond at the NIST Gaithersburg, MD site, in accordance with all requirements herein.	1	Job	\$_____
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OPTION V

0006	Remobilization Price - (The remobilization price will be paid by the Government to the Contractor, if construction is complete and the Contractor departs the construction site prior to the Government's exercise of an option.	1	Each	\$_____
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GRAND TOTAL	\$_____
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SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 STATEMENT OF WORK/SPECIFICATIONS

The Contractor shall furnish the necessary personnel, material, equipment, services and facilities (except as otherwise specified), to perform the Statement of Work/Specifications referenced in Section J, Attachment Number 1.

C.2 DUE DATES FOR PERFORMANCE AND PAYMENT BONDS

Standard Form 1442, Block 12B., Page 2 of 91, is completed as follows:

Bonding is required within 5 days prior to the start of the construction portion of the job. This is applicable to both the base contract and Options I through IV.

SECTION D - PACKAGING AND MARKING

THERE ARE NO CLAUSES INCLUDED IN THIS SECTION

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
CLAUSES

NUMBER	TITLE	DATE
52.246-12	INSPECTION OF CONSTRUCTION	AUG 1996

E.2 INSPECTION AND ACCEPTANCE

(a) The Contracting Officer or the duly authorized representative will perform inspection and acceptance of supplies and services to be provided under this contract.

(b) Inspection and acceptance will be performed at:

National Institute of Standards & Technology
Gaithersburg, MD 20899

SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
CLAUSES

NUMBER	TITLE	DATE
52.242-14	SUSPENSION OF WORK	APR 1984

F.2 COMMENCEMENT, PROSECUTION, AND COMPLETION
OF WORK (APR 1984)

The Contractor shall commence work on Contract Line Item Number (CLIN) 0001A, the base design, upon contract award and complete the design 56 calendar days thereafter.

The Contractor shall (a) commence work on CLIN 0001B within 5 calendar days after the date the Contractor receives the notice to proceed (NTP), (b) prosecute the work diligently, and (c) complete the entire work, ready for use, not later than 70 days after receipt of the NTP. The time stated for completion shall include final cleanup of the premises.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

- (a) (To be designated at time of award), is hereby designated as the Contracting Officer's Technical Representative. The COTR may be changed at any time by the Government without prior notice to the contractor but notification of the change, including the name and address of the successor COTR, will be promptly provided to the Contractor by the Contracting Officer in writing. The COTR is located at the U.S. Department of Commerce, _____, _____, _____. His telephone number is Area Code _____.
- (b) The responsibilities and limitations of the COTR are as follows:
- (1) The Contracting Officer's Technical Representative is responsible for the technical aspects of the project and technical liaison with the Contractor. The COTR is also responsible for the final inspection and acceptance of all reports, and such other responsibilities as may be specified in the contract.
 - (2) The COTR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the Contract price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the COTR. No such changes shall be made without the expressed prior authorization of the Contracting Officer. The COTR may designate assistant COTR(s) to act for him by naming such assistant in writing and transmitting a copy of such designation through the Contracting Officer to the Contractor.

G.2 CONTRACTING OFFICER'S AUTHORITY

The Contracting Officer is the only person authorized to make or approve any changes within the requirements of this contract and notwithstanding any provisions contained elsewhere, this authority remains solely within the Contracting Officer's discretion. In the event the Contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without the authority and no adjustment will be made in the contract price to cover an increase in costs incurred as a result thereof.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 ORGANIZATIONAL CONFLICT OF INTEREST

- (a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.
- (b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.
- (c) Remedies - The Contracting Officer may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.
- (d) The Contractor further agrees to insert provisions which shall conform substantially to the language of this clause, including this paragraph (d), in any subcontract or consultant agreement hereunder.

H.2 OPTION FOR INCREASED QUANTITY--FIXED-PRICE CONTRACT

- (a) The Government may increase the quantity of work called for under this contract as follows:

Options	Quantity	Unit Price	Delivery Date
Option I			
0002A	In accordance with		See Attachment 1
	Section B		Section 2.2.1
0002B	In accordance with		See Attachment 1
	Section B		Section 2.2.1

H.2 (Continued)

Option II		
0003A	In accordance with Section B	See Attachment 1 Section 2.3.1
0003B	In accordance with Section B	See Attachment 1 Section 2.3.1
Option III		
0004A	In accordance with Section B	See Attachment 1 Section 2.4.1
0004B	In accordance with Section B	See Attachment 1 Section 2.4.1
Option IV		
0005	In accordance with Section B	See Attachment 1 Section 3.1

(b) The Contracting Officer may exercise an option by written notice to the Contractor within the following time periods:

Options	Time Period for Exercising Option
Option I	Within 12 Months After Contract Award
Option II	Within 12 Months After Contract Award
Option III	Within 12 Months After Contract Award
Option IV	Within 12 Months After Contract Award

H.3 NOTICE OF REQUIRED PERFORMANCE SECURITY

If a contract exceeds \$25,000, the successful offeror shall furnish security to guarantee faithful performance of the contract in the amount of 100 percent of the total contract price. Security may be in the form of a performance bond on Standard Form 25 (furnished on request), or in the form of a certified or cashier's check, bank draft, Post Office money order, or currency, or United States Government bonds or notes (at par value) deposited in accordance with Treasury Regulations. Money orders and checks shall be drawn payable to: National Inst. of Stds. & Tech..

H.4 NOTICE OF REQUIRED PAYMENT SECURITY

If a contract exceeds \$25,000, the successful offeror shall furnish security to guarantee payment to all persons supplying labor or materials in the performance of the contract. Such security may be in the form of a payment bond on Standard Form 25A (furnished on request) or in the form of a certified or cashier's check, bank draft, Post Office money order, or currency, or United States Government bonds or notes (at par value) deposited in accordance with Treasury Regulations. Money orders and checks shall be drawn payable to: National Inst. of Stds. & Tech.. The penal sum of the payment bond shall equal:

H.4 (Continued)

- (a) 50 percent of the contract price, if the contract price is not more than \$1 million;
- (b) 40 percent of the contract price, if the contract price is more than \$1 million but not more than \$5 million; or
- (c) \$2-1/2 million, if the contract price is more than \$5 million.

H.5 INSURANCE COVERAGE

Pursuant to the clause "Insurance - Work on a Government Installation (FAR 52.228-5)," the Contractor will be required to present evidence to show, as a minimum, the amounts of insurance coverage indicated below:

- (a) Workers Compensation and Employer's Liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.
- (b) General Liability.
 - (1) The Contractor shall have bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.
 - (2) Property Damage liability insurance shall be required in the amount of \$100,000.00.
- (c) Automobile Liability. The Contractor shall have automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

H.5 (Continued)

- (d) Aircraft Public and Passenger Liability. When aircraft are used in connection with performing the contract, the Contractor shall have aircraft public and passenger liability insurance. Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.

H.6 SAMPLES AND CERTIFICATES

When required by the specifications or the Contracting Officer, samples, certificates, and test data shall be submitted after award of the contract, prepaid, in time for proper action by the Contracting Officer or his/her designated representative. Certificates and test data shall be submitted in triplicate to show compliance of materials and construction specified in the contract performance requirements. Samples shall be submitted in duplicate by the Contractor, except as otherwise specified, to show compliance with the contract requirements. Materials or equipment for which samples, certifications or test data are required shall not be used in the work until approved in writing by the Contracting Officer.

H.7 WORK NOT INCLUDED ON CONTRACT DRAWINGS

Items scheduled on the contract drawings as "Not in Contract" (N.I.C.) are not included in this project.

H.8 MEETINGS

Performance of the contract includes the Contractor attending all meetings deemed necessary by the Contracting Officer.

H.9 SUBMITTAL PROCEDURES

The Contractor shall comply with the procedures as follows:

(a) Coordination: Coordinate preparation and processing of submittals with performance of construction activities. Transmit each submittal sufficiently in advance of performance of related construction activities to avoid delay.

(1) Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals and related activities that require sequential activity.

(2) Coordinate transmittal of different types of submittals for related elements of the Work so processing will not

H.9 (Continued)

be delayed by the need to review submittals concurrently for coordination.

(i) The Government reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.

(3) Processing: Allow sufficient review time so that installation will not be delayed as a result of the time required to process submittals, including time for resubmittals.

(i) Allow three weeks for initial review. Allow additional time if processing must be delayed to permit coordination with subsequent submittals. NIST will promptly advise the Contractor when a submittal being processed must be delayed for coordination.

(ii) If an intermediate submittal is necessary, process the same as the initial submittal.

(iii) Allow three weeks for reprocessing each submittal.

(iv) No extension of Contract Time will be authorized because of failure by the Contractor to transmit submittals to the Government sufficiently in advance of the Work to permit processing.

(b) Submittal Preparation: Place a permanent label or title block on each submittal for identification. Indicate the name of the entity that prepared each submittal on the label or title block.

(1) Provide a space approximately 4" x 5" on the label or beside the title block on Shop Drawings to record the Contractor's review and approval markings and the action taken.

(2) Include the following information on the label for processing and recording action taken.

(i) Project name. (ii) Date. (iii) Name and address of Architect. (iv) Name and address of Contractor. (v) Name and address of subcontractor. (vi) Name and address of supplier. (vii) Name of manufacturer. (viii) Number and title of appropriate Specification Section. (ix) Drawing number and detail references, as appropriate.

(c) Submittal Transmittal: Package each submittal appropriately for transmittal and handling. Transmit each submittal from Contractor to NIST using a transmittal form. Submittals received from sources other than the Contractor will be

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returned without action.

- (1) Transmittal Form: Use AIA Document G 810.

H.10 SPARE PARTS DATA

As soon as practicable after approval of the list of equipment, the Contractor shall furnish spare parts data for each different item of equipment listed. The data shall include a complete list of parts and supplies with current unit price and source of supply; a list of parts and supplies that are either normally furnished at no extra cost with the purchase of the equipment, or specified hereinafter to be furnished as part of the Contract and a list of additional items recommended by the manufacturer to assure efficient operation. The foregoing shall not relieve the Contractor of any responsibilities under the guarantee specified hereinafter.

H.11 MAINTENANCE AND OPERATION MANUALS

The Contractor shall furnish four (4) complete sets of manuals and/or instruction booklets and spare parts catalogs with each piece of equipment furnished under this contract.

H.12 MATERIAL AND/OR EQUIPMENT LISTS

Within (10) ten calendar days after receipt of Notice to Proceed, and prior to the commitment for purchase of any materials and/or equipment to be utilized on this Contract, the Contractor shall submit for review and for tentative approval only, four (4) copies of a complete listing of such materials and/or equipment. The listing shall include sufficient data to identify the materials and equipment as to type, quality, sizes when applicable, and manufacturer or source. Tentative approval of the items in the materials and equipment list will be given, however all items will be subject to final review and approval by the COTR upon submittal of samples and/or shop drawings when specified. Materials and/or equipment shall not be fabricated or installed without prior approval.

H.13 EQUIPMENT DELIVERY SCHEDULE

Within ten (10) calendar days after Notice of Award, submit to the COTR for approval, a schedule shown in the procurement plans for materials, plans and equipment. The submittal shall be in the format prescribed by the Contracting Officer and include as a minimum the following information:

- (1) Description
- (2) Date of purchase order

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(3) Promised shipping date

(4) Name of manufacturer or supplier

(5) Date delivery is expected

(6) Date material or equipment is required, according to current progress schedule or network

The Contractor shall update the equipment delivery schedule at monthly intervals or as directed by the COTR. This delivery schedule shall reflect any changes occurring since the last update. The Contractor shall submit copies of purchase orders and confirmation of delivery dates as directed by the COTR and update the equipment schedule with each invoice for progress payment.

H.14 CONTRACTORS CONSTRUCTION SCHEDULE

These schedules are in addition to the clause entitled "Schedules for Construction Contracts." The Contractor shall comply with the following:

Bar-Chart Schedule: Prepare a fully developed, horizontal bar- chart type Contractor's construction schedule. Submit the schedule within 15 days of the date established for "Notice to Proceed."

(1) Provide a separate time bar for each significant construction activity. Provide a continuous vertical line to identify the first working day of each week. Use the same breakdown of units of the Work as indicated in the "Schedule of Values."

(2) Within each time bar indicate estimated completion percentage in 10 percent increments. As work progresses, place a contrasting mark in each bar to indicate actual completion.

(3) Prepare the schedule on a sheet, or series of sheets, of stable transparency, or other reproducible media, of sufficient width to show data for the entire construction period.

(4) Secure time commitments for performing critical elements of the work from parties involved; coordinate each element on the schedule with other construction activities; and include minor elements involved in the sequence of the work; show each activity in proper sequence; and indicate graphically sequences necessary for completion of related portions of the work.

H.14 (Continued)

(5) Coordinate the Contractor's construction schedule with the schedule of values, list of subcontracts, submittal schedule, progress reports, payment requests and other schedules.

(6) Indicate completion in advance of the date established for Substantial Completion. Indicate Substantial Completion on the schedule to allow time for the COTR's procedures necessary for certification of Substantial Completion.

(7) Phasing: Provide notations on the schedule to show how the sequence of the Work is affected by requirements for phased completion to permit Work by separate Contractors and partial occupancy by the Government prior to Substantial Completion.

(8) Work Stages: Indicate important stages of construction for each major portion of the Work, including testing and installation.

(9) Area Separations: Provide a separate time bar to identify each major construction area for each major portion of the Work. Indicate where each element in an area must be sequenced or integrated with other activities.

(10) Cost Correlation: At the head of the schedule, provide a two item cost correlation line, indicating "precalculated" and "actual" costs. On the line show dollar-volume of work performed as of the dates used for preparation of payment requests.

(i) Refer to the clause entitled "Payments Under Fixed Price Construction Contracts." for cost reporting and payment procedures.

(11) Distribution: Following response to the initial submittal, print and distribute copies to the COTR, Government, subcontractors, and other parties required to comply with scheduled dates. Post copies in the Project meeting room and temporary field office.

(i) When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the work and are no longer involved in construction activities.

(12) Schedule Updating: Revise the schedule after each meeting or activity, where revisions have been recognized or made. Issue the updated schedule concurrently with report of each meeting.

H.15 PERCENTAGE OF WORK PERFORMED BY THE CONTRACTOR

Prior to commencement of work at the site, the Contractor shall furnish to the Contracting Officer a description of work to be performed with the Contractor's own organization and the percentage of total amount of work to be performed under the contract which this represents. Consider the value of materials as part of work performed by the Contractor only if the materials are to be installed on the site by his own organization.

H.16 CONTRACTORS DAILY REPORT

The Contractor shall prepare a daily construction report, recording the following information concerning events at the site; and submit a copy to the COTR daily. The report shall contain:

(1) List of subcontractors at the site. (2) Approximate count of personnel at the site. (3) High and low temperatures, general weather conditions. (4) Accidents and unusual events. (5) Meetings and significant decisions. (6) Stoppages, delays, shortages, losses. (7) Meter readings and similar recordings. (8) Emergency procedures. (9) Orders and requests of governing authorities. (10) Change Orders received, implemented. (11) Services connected, disconnected. (12) Equipment or system tests and start-ups. (13) Partial Completions, occupancies. (14) Substantial Completions authorized.

H.17 TRADE MANUALS, CODES AND STANDARDS

DEFINITIONS

(1) General: Basic Contract definitions are as follows:
(2) Indicated: Refers to graphic representations, notes or schedules on the Drawings, or other Paragraphs or Schedules in Specifications, and similar requirements in Contract Documents. Where terms such as "shown," "noted," "scheduled," and "specified" are used, it is to help locate the reference; no limitation on location is intended except as specifically noted.

(3) Directed: Terms such as "directed", "requested", "authorized", "selected", "approved", "required", and "permitted" mean "directed by the COTR", "requested by the COTR", and similar phrases. However, no implied meaning shall be interpreted to extend the COTR's responsibility into the Contractor's area of construction supervision.

(4) Approve: The term "approved," where used in conjunction with the COTR's action on the Contractor's submittals, applications, and requests, is limited to the duties and responsibilities of the COTR as stated in General and Supplementary Conditions. Such approval shall not release the Contractor from responsibility to fulfill Contract requirements unless otherwise provided in the Contract Documents.

H.17 (Continued)

(5) Regulation: The term "Regulations" includes laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, as well as rules, conventions, and agreements within the construction industry that control performance of the Work, whether lawfully imposed by authorities having jurisdiction or not.

(6) Furnish: The term "furnish" is used to mean "supply and deliver to the Project site, ready for unloading, unpacking, assembly, installation, and similar operations."

(7) Install: The term "install" is used to describe operations at project site including the actual "unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations."

(8) Provide: The term "provide" means "to furnish and install, complete and ready for the intended use."

(9) Installer: An "Installer" is the Contractor or an entity engaged by the Contractor, either as an employee, subcontractor, or r sub-subcont including installation, erection, application, and similar operations. Installers are required to be experienced in the operations they are engaged to perform.

(i) The term "experienced," when used with the term "Installer" means having a minimum of 5 previous Projects similar in size and scope to this Project, being familiar with the precautions required, and having complied with requirements of the authority having jurisdiction.

(10) Project Site is the space available to the Contractor for performance of construction activities, either exclusively or in conjunction with others performing other construction activities as part of the Project.

(11) Testing Laboratories: A "testing laboratory" is an independent entity engaged to perform specific inspections or tests, either at the Project Site or elsewhere, and to report on and, if required, to interpret results of those inspections or tests.

SPECIFICATION FORMAT AND CONTENT EXPLANATION

(1) Specification Format: These Specifications are organized into Divisions and Sections based on the Construction Specifications Institute's 16-Division format and numbering system.

H.17 (Continued)

(2) Specification Content: This Specification uses certain conventions in the use of language and the intended meaning of certain terms, words, and phrases when used in particular situations or circumstances. These conventions are explained as follows:

(i) Abbreviated Language: Language used in the Specifications and other Contract Documents is the abbreviated type. Implied words and meanings will be appropriately interpreted. Singular words will be interpreted as plural and plural words interpreted as singular where applicable and where the full context of the Contract Documents so indicates.

(ii) Imperative and streamlined language is used generally in the Specifications. Requirements expressed in the imperative mood are to be performed by the Contractor. At certain locations in the text, for clarity, subjective language is used to describe responsibilities that must be fulfilled indirectly by the Contractor, or by others when so noted.

A. The words "shall be" shall be included by inference wherever a colon (:) is used within a sentence or phrase.

(3) Assignment of Specialists: The Specification requires that certain specific construction activities shall be performed by specialists who are recognized experts in the operations to be performed. The specialists must be engaged for those activities, and assignments are requirements over which the Contractor has no choice or option. Nevertheless, the ultimate responsibility for fulfilling Contract requirements remains with the Contractor.

(i) This requirement shall not be interpreted to conflict with enforcement of building codes and similar regulations governing the Work. It is also not intended to interfere with local trade union jurisdictional settlements and similar conventions.

(ii) Trades: Use of titles such as "carpentry" is not intended to imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to trade persons of the corresponding generic name.

DRAWING SYMBOLS

(1) Graphic symbols: Where not otherwise noted, symbols are defined by "Architectural Graphic Standards," published by

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John Wiley & Sons, Inc., eighth edition.

(2) Mechanical/Electrical Drawings: Graphic symbols used on mechanical and electrical Drawings are generally aligned with symbols recommended by ASHRAE. Where appropriate, they are supplemented by more specific symbols recommended by technical associations including ASME, ASPE, IEEE, and similar organizations. The Contractor shall refer instances of uncertainty to the COTR for clarification before proceeding.

INDUSTRY STANDARDS

(1) Applicability of Standards: Except where the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents. Such standards are made a part of the Contract Documents by reference. Individual Sections indicate which codes and standards the Contractor must keep available at the Project Site for reference.

(2) Publication Dates: Where the date of issue of a referenced standard is not specified, the Contractor shall comply with the standard in effect as of date of Contract Documents.

(i) Updated Standards: At the request of the COTR, Contractor, or authority having jurisdiction, the Contractor shall submit a Change Order proposal where an applicable code or standard has been revised and reissued after the date of the Contract Documents and before performance of Work affected. The COTR will decide whether to issue a Change Order to proceed with the updated standard.

(3) Conflicting Requirements: Where compliance with two or more standards is specified, and they establish different or conflicting requirements for minimum quantities or quality levels, the most stringent requirement will be enforced, unless the Contract Documents indicate otherwise. The Contractor shall refer requirements that are different, but apparently equal, and uncertainties as to which quality level is more stringent to the COTR for a decision before proceeding.

(i) Minimum Quantity or Quality Levels: In every instance the quantity or quality level shown or specified shall be the minimum to be provided or performed. The actual installation may comply exactly, within specified tolerances, with the minimum quantity or quality specified, or it may exceed that minimum within reasonable limits. In complying with these requirements, indicated numeric values are minimum or maximum values, as noted, or appropriate for the context of the requirements. The Contractor shall refer instances of uncertainty to the COTR for a decision before proceeding.

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(4) Copies of Standards: Each entity engaged in construction on the Project is required to be familiar with industry standards applicable to that entity's construction activity. Copies of applicable standards are not bound with the Contract Documents.

(i) Where copies of standards are needed for performance of a required construction activity, the Contractor shall obtain copies directly from the publication source.

(5) Abbreviations and Names: Trade association names and titles of general standards are frequently abbreviated. Where such acronyms or abbreviations are used in the Specifications or other Contract Documents, they mean the recognized name of the trade association, standards generating organization, authority having jurisdiction, or other entity applicable to the context of the text provision. The Contractor shall refer to the "Encyclopedia of Associations," published by Gale Research Co., available in most libraries.

SUBMITTALS

(1) Permits, Licenses, and Certificates: For the Government's records, the Contractor shall submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, and similar documents, correspondence, and records established in conjunction with compliance with standards and regulations bearing upon performance of the Work.

H.18 SUBCONTRACTORS AND PERSONNEL

The Contractor shall submit to the Contracting Officer a list of the key personnel of the Contractor and subcontractors (including addresses and telephone numbers) for use in the event of an emergency. As changes occur and additional information becomes available, the Contractor shall correct and change the information contained in previous lists.

H.19 DOCUMENTATION FOR CONTRACTOR (DRAWINGS & SPECIFICATIONS)

One set of reproducible large scale contract drawings will be furnished to the Contractor without charge. Additional sets will be furnished on request at the cost of reproduction.

In addition to the reproducible set of contract drawings the Contracting Officer will furnish ten (10) sets of full-size drawings and 10 copies of the contract specifications without charge, after award of the contract.

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Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

The Contractor shall check all drawings furnished him immediately upon their receipt and shall in writing within fourteen (14) calendar days from receipt of award, notify the Contracting Officer of any discrepancies. Figures marked on drawings shall in general be followed in preference to scale measurements. Large scale drawings shall in general govern small scale drawings, the Contractor shall compare all drawings and verify the figures before laying out the work and will be responsible for any errors which might have been avoided thereby.

H.20 MEASUREMENTS

Actual dimensions and physical obstructions shall be obtained by the Contractor from on-site investigation. The Contractor shall furnish and install, at no cost to the Government, all necessary fittings, off-sets, p su prevent conflict with new or existing work and to provide a complete and usable facility.

H.21 PERMITS

In addition to the requirements of the clause entitled "Permits and Responsibilities", permits are required for but not necessarily limited to welding, burning and digging. Prior to commencing these activities the Contractor shall submit an application for a permit to the COTR. The Contractor shall allow seven (7) calendar days for processing of the application.

H.22 QUALITY CONTROL

The Contractor shall refer to the Technical Specifications for inspection and testing requirements.

GENERAL

(1) APPLICABLE PUBLICATIONS: The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

(2) DEFINITIONS:

(i) Factory Tests: Tests made on various products

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and component parts prior to shipment to the job site, including but not limited to such items as transformers, boilers, air conditioning equipment, electrical equipment, and precast concrete.

(ii) Field Tests: Tests or analyses made at, or in the vicinity of, the job site in connection with the actual construction.

(iii) Product: The term "product" includes the plural thereof and means a type or a category of manufactured goods, constructions, installations, and natural and processed materials or those associated services whose characterization, classification, or functional performance determination is specified by standards.

(iv) Person: The term "person" means associations, companies, corporations, educational institutions, firms, government agencies at the Federal, State, and local level, partnerships, and societies, as well as divisions thereof, and individuals.

(v) Testing Laboratory: The term "testing laboratory" means any "person", as defined above, whose functions include testing, analyzing, or inspecting "products", as defined above, evaluating the designs or specifications of such "products" according to the requirements of applicable standards.

(vi) Certified Test Reports: Test reports signed by an authorized official stating that tests were performed in accordance with the test method specified, that the results reported are accurate, and that items tested either meet or fail to meet the stated minimum requirements. These test reports include those performed by Factory Mutual, Underwriters Laboratories, Inc., and others.

(vii) Certified Inspection Reports: Reports signed by approved inspectors attesting that the items inspected meet the specification requirements other than any exception included in the report.

(viii) Manufacturer's Certificate of Conformance: A certificate signed by an authorized manufacturer's official attesting that the material or equipment delivered meets that specification requirements.

(3) SUBMITTALS: The Contractor shall prepare submittals in accordance with the Special Contract Requirements and the Technical Specifications and submit to the COTR for approval. Each submittal shall be accompanied with a cover letter signed by the Contractor. The Contractor shall clearly mark each item

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proposed to be incorporated into the contract and identify in the submittals, with cross-references to the contract drawings and specifications so as to identify clearly the use for which it is intended. Stamp each sheet of submittal with the Contractor's certification stamp. Data submitted in a bound volume or on one sheet printed on two sides, may be stamped on the front of the first sheet only. The Contractor's certification stamp shall be worded as follows:

"It is hereby certified that the (equipment) (material) shown and marked in this submittal is that proposed to be incorporated into Contract Number _____, is in compliance with the Contract drawings and specifications, can be installed in the allocated spaces, and is submitted for Government approval.

Certified by _____ Date _____"

The person signing the certification shall be one designated in writing by the Contractor as having that authority. The signature shall be in original ink. Stamp signatures are not acceptable.

(i) Submittal Status Logs: The Contractor shall utilize the submittal log provided by the COTR of Construction. The Contractor shall verify the log for accuracy and completeness, and shall notify the COTR, in writing, within seven (7) calendar days with regards to the same. The Contractor is required to maintain at the job-site an up-to-date log Use of a numbering system is required.

(ii) Shop Drawings: These submittals shall be in accordance with the requirements of the clause entitled "Specifications and Drawings for Construction".

(iii) Manufacturer's Data: Catalogue cuts, technical data sheets, descriptive literature, and samples shall be submitted in accordance with the clause entitled, "Submittal Procedures."

(iv) Certified Test Reports: Before delivery of materials and equipment, five (5) certified copies of the reports of all test listed in the technical sections shall be submitted and approved. The testing shall have been performed in a laboratory meeting the requirements specified herein. The tests shall have been performed within three (3) years of submittal of the reports for approval. Test reports shall be accompanied by the certificates from the manufacturers certifying that the material and equipment proposed to be supplied is of the same type, quality, manufacture, and make as that tested.

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(v) Manufacturer's Certificates of Conformance: Before delivery, manufacturer's certifications shall be furnished by the Contractor as required on items of materials and equipment indicated in the technical sections. Pre-printed certifications will not be acceptable. All certifications shall be in the original. The original of all manufacturer's certifications shall name the appropriate item of equipment or material, specification, standard, or other document specified as controlling the quality of that item and shall have attached thereto certified copies of test data upon which the certifications are based. All certificates shall be signed by the manufacturer's official authorized to sign certificates of conformance.

(vi) Laboratory Reports: Reports shall cite the contract requirements, the test or analysis procedures used, the actual test results, and include a statement that the item tested or analyzed conforms or fails to conform to the specification requirements. Each report shall be conspicuously stamped on the cover sheet in large red letters "CONFORMS" or "DOES NOT CONFORM" to the specification requirements as the case may be. All test reports shall be signed by a representative of the testing laboratory authorized to sign certified test reports. The Contractor shall arrange for immediate and direct delivery of the signed original of all reports, certifications, and other documentation to the Contracting Officer.

(vii) Tabulation of Tests: Prior to final payment, the Contractor shall obtain from each laboratory a tabulation of all tests it has performed in connection with the construction contract. Conforming, nonconforming, and retesting shall be tabulated. The tabulation(s) shall be certified as complete, and signed by the authorized representative of the laboratory, and shall be delivered to the Contracting Officer.

(viii) Deviations: Deviations from contract requirements are discouraged. In the event the Contractor determines that a deviation is necessary, the Contractor shall state specifically what portion varies, why a deviation is necessary, and includes a complete breakdown of the difference in cost, either additive or deductive, in compliance with Section , Paragraph , entitled "Changes". Without such documentation, deviations will not be considered by the Contracting Officer.

(ix) Warrants for Deviations: If the Contractor determines that a deviation is necessary, the Contractor shall warrant:

A. That the entire contract has been reviewed in order to establish that the deviation, when incorporated, will be compatible with all other elements of construction.

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B. That any action shall be taken and any additional expense borne which may arise by reason of incorporating the proposed deviation, including, but not limited to, change in this or other elements of construction resulting from the incompatibility of the proposed deviation with any other element of construction.

EXECUTION

(1) QUALITY CONTROL REQUIREMENTS: The Contractor shall inspect and test all work under the contract and maintain records of the inspections and tests. Approvals, except those required for field installation, field applications, and field tests, shall be obtained before delivery of materials and equipment to the project site. Surveillance of the inspection system will be performed by the Contracting Officer.

(i) Factory Tests: Unless otherwise specified, the Contractor shall arrange for factory tests when they are required under the contract.

(ii) Factory Inspections by the Contractor: Unless otherwise specified, the Contractor shall arrange and perform all factory inspections specifically required in the technical specifications. These inspections shall be reported in the Contractor's Daily Report.

(iii) Field Inspections and Tests by the Contractor: The Contractor shall furnish all equipment, instruments, qualified personnel, and facilities necessary to inspect all work and perform all tests required by the contract. All inspections and tests performed and test results received each day shall be included in the Contractor's Daily Report.

(iv) Field Inspections and Tests by the Government: If deemed necessary by the Contracting Officer, field inspections and tests will be made in accordance with the clause entitled "Scheduling of Inspections."

(v) Approval of Testing Laboratories: All laboratory work under this contract shall be performed by a laboratory approved by the Government. The basis of approval includes the following:

A. Testing laboratories performing work in connection with concrete, steel, and bituminous materials shall comply with ASTM E329 and ASTM D3666, respectively.

B. Testing laboratories engaged in the testing and inspection of soils and rock or performing

H.22 (Continued)

i non-destruct D3740 and ASTM E543, respectively.

C. Testing laboratories performing work not in connection with concrete, steel, bituminous materials, soils and non-destructive testing shall comply with ASTM E548.

(vi) Laboratory Inspection: Prior to approval, the laboratory shall submit in writing the following:

A. Functional description of the laboratory's organizational structure, operational departments, and support departments and services.

B. A list and resumes of the personnel assigned to the proposed testing, including the person charged with engineering managerial responsibility.

C. Affidavit of compliance with the applicable ASTM publication and certification that the laboratory performs work in accordance with technical requirements as required by the contract specifications.

D. A list of test and inspection equipment for each of the proposed test procedures and certification that the equipment is calibrated at prescribed intervals to ensure the validity of the test and inspection data.

E. A copy of the latest Laboratory Inspection Report by an independent agency with laboratory certification that deficiencies (if any) have been corrected.

(2) Repeated Tests and Inspections: The Contractor shall repeat tests and inspections after each correction made to nonconforming materials and workmanship until tests and inspections indicate the materials, equipment, and workmanship conform to the contract requirements. The retesting and reinspections shall be performed at no additional cost to the Government.

H.23 AS-BUILT RECORD OF MATERIALS

Prior to completion of the contract, the Contractor shall furnish an "as-built" record of materials used in the construction. Submission of this data is a condition for final payment under the contract. Where several manufacturers' brands, types, or classes of the item listed have been used in the project, the specific areas where each item was used shall be designated. Designations shall be keyed to the areas and spaces depicted on the contract drawings.

H.24 AS-BUILT DRAWINGS

The Contractor shall maintain at the job site one set of full-size contract drawings marked to show any changes and/or revisions which have been made from the contract drawings, including buried or concealed construction and utility features revealed during the course of construction. The Contractor shall record the horizontal and vertical location of all buried utilities that differ from the contract drawings. These drawings shall be available for review by the COTR at all times. Upon completion of the work, the Contractor shall deliver the marked sets of prints to the COTR in the original units of measure. Requests for partial payments will not be approved if the marked prints are not current, and request for final payment will not be approved until the marked prints are delivered to the Contracting Officer.

H.25 USE OF EQUIPMENT BY GOVERNMENT

The Government may take over and operate, with Government employees, such equipment as is necessary for heating or cooling such areas of the building as require the service, as soon as the installation is sufficiently complete.

The Contracting Officer will advise the Contractor by letter, prior to the use of equipment, which items of equipment will be operated, and the date and time such operation will begin.

Government operation of equipment will not relieve the Contractor of the guarantee on materials and workmanship elsewhere provided for in this contract.

H.26 TEMPORARY UTILITIES

Potable water is available for use by the Contractor at no charge. Contractor shall obtain approval from COTR prior to connecting to the existing service. Installation of temporary water service shall be in accordance with recognized codes and standards.

Electric power is available for the Contractor at no charge. Contractor shall obtain approval from COTR prior to connecting to the existing electrical service. Installation of temporary electrical power shall be in accordance with the National Electric Code.

The Contractor shall arrange with C & P to have a telephone installed in the Contractor's General Foreman's Office trailer.

H.27 TOILET FACILITIES

Contractor shall provide toilet accommodations for his

H.27 (Continued)

personnel, with sewer and water connections where possible; keep in sanitary condition and, on completion of the contract, remove and leave premises clean. Location of portable toilet facilities must be approved by the COTR.

H.28 INTERRUPTION TO OPERATIONS AND SERVICES

The Contractor shall schedule his work as to cause the least amount of interference with site operations. Work schedules shall be subject to the approval of the COTR. Permission to interrupt any site road and/or utility service shall be requested in writing a minimum of fourteen (14) calendar days prior to the desired date of interruption.

The Contractor shall ensure that new utility lines are complete, except for the connection, before interrupting existing service.

Outages and Closures: The Contractor shall not close or partially block any roads or cause utility outages (electrical, steam, chilled water, water, compressed air, gas, sewer, telephone, fire alarm, and signal systems) without the written authorization from the COTR. Authorization shall be requested not less than 14 days in advance and not before all material necessary for the work to be done during the road blockage or utility outage is on the site. The request for authorization shall include in writing the following information: Contractor's name, contract number, project title, description and drawings of roads and utilities to be shut down, times, dates and reasons for shut downs, and any pertinent suggestions or comments. All outages and closures shall be limited to the minimum time and shall not exceed the authorized time. The Contractor shall provide cautionary and directional signs as needed. Work which necessitates an outage affecting the areas beyond the work site shall be performed on Saturday, Sunday or after the normal working day.

H.29 CONSTRUCTION FENCE

The Contractor shall furnish and install at his own expense, retain ownership of and remove when no longer required or as directed by the COTR, a construction fence following the contract limit lines. The fence shall be approximately four (4) feet six (6) inches high and supported by 2-inch pipe posts placed not more than eight (8) feet on center. Fence shall be of wired wood slat (snow fence) subject to approval by the COTR.

The purpose of this fence is to define the approximately limits of new construction for the work in this contract. The layout must be approved by the COTR prior to installation by the Contractor.

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Variations in location of the fence as shown will be considered where construction fence can also serve as a protection for wooded areas, trees and shrubs which are to remain, as described elsewhere in the Technical Specifications.

H.30 CONSTRUCTION SIGN

Within fifteen (15) days after commencement of work, the Contractor shall provide one sign no larger than four (4) square feet at the construction site indicating the name of the Contractor, the name of the Contractors representative and his telephone number, the title and contract number of the project, and any other specific information and format provided by the COTR. The construction sign must be approved prior to installation. The COTR will select the location for the sign.

H.31 LAYDOWN AREA

The laydown area will be determined by the COTR.

H.32 MATERIAL STORAGE

All material must be stored in the laydown area.

The Contractor shall not store any material in the existing building.

The Contractor shall adequately protect all materials from the weather.

H.33 SALVAGE

The Government does not assume responsibility for any loss or damage to materials or structures on the site, salvage value of which the Contractor may have reflected in his bid.

H.34 PARKING

Parking will be restricted to the area(s) determined by the COTR. Requests for additional or alternate parking should be made in writing to the COTR. Fifteen (15) feet of clearance shall be maintained around all fire hydrants at all times.

H.35 NIST SITE REGULATIONS

The Contractor and his employees and subcontractors shall become familiar with and obey all NIST site Regulations, including fire, traffic, and security regulations. All personnel employed on the site shall keep within the limits of the work (and avenues

H.35 (Continued)

of ingress and egress), and shall not enter any restricted areas unless required to do so and are cleared for such entry. The Contractor's equipment shall be conspicuously marked for identification.

H.36 PUBLIC RELEASE OF INFORMATION

The Contractor shall not publicly release information, photographs, or other documents concerning any aspect of the materials or services relating to this bid, contract, or purchase order without the prior written approval of the Contracting Officer.

Insert the substance of clause "a" of this paragraph in each subcontract and purchase order related to the project.

H.37 FIRE PREVENTION AND PROTECTION

The Contractor shall comply with all fire prevention recommendations of the National Fire Protection Association (NFPA) Regulations which are incorporated herein by reference. A written fire permit shall be obtained from the station Fire Marshall for use of open flame devices, such as blow torches, portable furnaces, tar kettles or gas and electric welding and cutting equipment in or within fifteen feet of buildings. The Contractor shall be liable for any fire loss to Government property attributable to negligence on the part of the Contractor or sub-Contractor, included in part, failure to comply with fire prevention measures prescribed by terms of this Contract. Gasoline-driven equipment will not be allowed within the building.

Fire hydrant service to the construction area must be provided by the Contractor. Location of the hydrant(s) should be obtained from the Fire Protection Services Division of NIST through the Contracting Officer. Installation shall be in accordance with Division 15 of the Technical Specifications.

H.38 OCCUPATIONAL SAFETY AND HEALTH

NIST, as a Federal government facility in the State of Maryland, is under the jurisdiction of the OSHA Region III regional office, which may assign an OSHA Compliance Safety and Health Officer (CSHO) to conduct safety and health inspections of the Contractor's operations at the NIST Gaithersburg site. Accordingly, the Contractor is subject to OSHA Citations and Notices of Penalty for noncompliance with OSHA standards. To protect its own interests, NIST may also conduct periodic safety and health inspections to assure that NIST employees/property are not at risk of injury/damage from Contractor operations, and to avoid the risk of OSHA Citations under the OSHA multiemployer worksite provisions.

H.38 (Continued)

Prework Safety Meeting: Representatives of the Contractor shall meet with the Contracting Officer and his/her safety representative(s) prior to the start of work under this contract for the purpose of reviewing the Contractor's safety and health programs and discussing implementation of all safety and health provisions pertinent to the work to be performed under the contract. The Contractor shall be prepared to discuss, in detail, the measures he/she intends to take in order to control any unsafe or unhealthy conditions associated with the work to be performed under the contract. If directed by the Contracting Officer, this meeting may be held in conjunction with other meetings which are scheduled to take place prior to start of work under this contract. The level of detail for the safety meeting is dependent upon the nature of the work and the potential inherent hazards. The Contractor's principal on-site representative(s), the general superintendent, and his/her safety representative(s) shall attend this meeting.

Safety and Health Standards Compliance: The Contractor shall comply (and shall ensure that firms acting as agents or subcontractors to the prime Contractor also comply) with all applicable OSHA Safety and Health Standards for Construction (29CFR1926) and OSHA General Industry Occupational Safety and Health Standards (29CFR1910). Additionally, the Contractor shall comply with all applicable site safety and health requirements. The NIST Safety Office will provide guidance/consultation regarding specific site requirements.

Special Emphasis Standards: While the Contractor is responsible for compliance with all applicable OSHA Safety and Health Standards, special emphasis will be placed upon the following:

(1)Fall Protection: Fall protection measures shall be implemented as required via use of suitable guardrails/barricades; safety belts/harnesses/lanyards/lifelines; safety nets; or other approved means. Particular emphasis is to be focused on the requirements stipulated in Subpart L (Scaffolding), Subpart M (Floor and Wall Openings), Subpart R (Steel Erection) and Subpart X (Stairways and Ladders) of 29CFR1926 (Safety and Health Standards for Construction).

(2)Excavations and Trenching: With regard to excavations (including trenches), the soil at the NIST Gaithersburg site shall be considered previously excavated and therefore unstable. Accordingly, persons entering excavations five (5) or more feet deep shall be protected from cave-ins by an adequate protective system designed in accordance with the requirements of 29CFR1926.652(b) or (c). All other applicable requirements for excavations as contained in Subpart P (Excavations) of 29CFR1926

H.38 (Continued)

shall be implemented.

(3)Confined Spaces: Entry into permit-required confined spaces must be in accordance with the requirements stipulated in the OSHA Permit-Required Confined Space standard (29CFR1910.146). The Contractor shall be responsible for all confined space entry requirements including personnel training, documented entry permit system, atmospheric testing/ monitoring, forced ventilation, personal protective equipment, and emergency procedures/equipment.

(4)Hazard Communication: As applicable (i.e., when chemicals are used on-site by the Contractor), the Contractor shall develop, implement and maintain at the workplace a written hazard communication program meeting the requirements of 29CFR1926.59 (for construction contracts) or 29CFR1910.1200 (for other than construction contracts). The contractor shall ensure that each container of hazardous chemicals at the worksite is labeled, tagged or otherwise marked with the identity of the hazardous chemical(s) contained therein and that such markings show hazard warnings appropriate for employee protection. The Contractor shall provide employees with information and training on hazardous chemicals in their work area at the time of initial assignment and whenever a new hazardous chemical is introduced into their work area. The Contractor shall also provide employees with information on any operations in their work area where hazardous chemicals are present; and the location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets (MSDS) required by the standard.

(5)Control of Hazardous Energy (Lockout/Tagout): In accordance with the provisions of OSHA standards 29CFR1910.147 and 29CFR1926.417, the Contractor shall establish and implement a program consisting of energy control procedures, employee training and periodic inspections to ensure that before any employee performs any servicing or maintenance on electrical circuits/equipment, machines or other equipment/systems where the unexpected energizing, start up or release of stored energy could occur and cause injury, the circuit/machine/equipment/system shall be isolated from the energy source and rendered inoperative.

(6)Electrical Installations and Work Practices: The Contractor shall comply with all applicable installation safety requirements, safety-related maintenance and environmental considerations, and safety requirements for special equipment as contained in Subpart K (Electrical) of 29CFR1926.

(7)Personal Protective and Life Saving Equipment: In accordance with the provisions of Subpart E (Personal Protective and Life Saving Equipment) of 29CFR1926, the Contractor shall ensure that protective equipment (including personal protective

H.38 (Continued)

equipment for eyes, head, face, head and extremities; protective clothing; respiratory devices; and protective shields and barriers) shall be provided, used and maintained in a sanitary and reliable condition whenever it is necessary by reason of hazards of process or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of the body through absorption, inhalation or physical contact.

(8)Tools-Hand and Power: The Contractor shall ensure compliance with all applicable safety requirements for tools (hand and power) as outlined in Subpart I (Tools-Hand and Power) of 29CFR1926.

(9)Welding and Cutting: The Contractor shall ensure compliance with all applicable safety requirements pertaining to welding and cutting operations as outlined in Subpart J (Welding and Cutting) of 29CFR1926.

(10)Motor Vehicles and Mechanized Equipment: The Contractor shall ensure compliance with the safety requirements pertaining to motor vehicles and mechanized equipment (materials handling equipment and pile driving equipment) as contained in Subpart O (Motor Vehicles, Mechanized Equipment, and Marine Operations) of 29CFR1926.

General Site Safety Requirements: For the protection of NIST employees, other agency employees and the general public, the following general worksite safety requirements shall be observed by the Contractor:

(1)Precautions: The Contractor shall take all necessary precautions to prevent injury to the public, building occupants, and damage to property of others. For the purposes of this contract, the public or building occupants shall include all persons not employed by the Contractor or a subcontractor working under his/her direction.

(2)Housekeeping: Form and scrap lumber with protruding nails/fasteners and all other debris shall be kept clear from all work areas. Combustible scrap and debris shall be removed at regular intervals. Containers shall be provided for collection and separation of all refuse. Covers shall be provided on containers used for flammable or harmful substances. Wastes should be disposed of at frequent intervals.

(3)Storage: Storing, positioning, and use of equipment, tools, materials, scraps, and trash in a manner likely to present a hazard to the public or building occupants by its accidental shifting, ignition, or other hazardous qualities is prohibited.

H.38 (Continued)

(4)Obstructions: No corridor, aisle, stairway, door, or exit shall be obstructed or used in such a manner as to encroach upon routes or ingress or egress utilized by the public or building occupant, or to present un-safe or unhealthy condition to the public or building occupant.

(5)Radiation Safety: the Contractor shall not bring to or use at NIST any radioactive materials or radio-graphic devices without explicit prior approval from Health Physics for each use of such devices. Any such use shall be in compliance with restrictions and pro-cedures prescribed by NIST Health Physics (Bldg. 245, Room C125, x5800). Any work conducted in a NIST Restricted Area (as defined by the Nuclear Regulatory Commission and applied by NIST) shall comply with NIST procedural requirements and, in particular, specific training requirements for all persons entering that area. No area posted with Radioactive Material, Radiation Area, High Radiation Area, or Very High Radiation Area sign shall be entered without prior approval from Health Physics (i.e., all work in such areas requires prior clearance from NIST Health Physics).

(6)Work Area Restrictions: Work shall not be performed in any area occupied by the public or Federal employees unless specifically permitted by the contract or the Contracting Officer and unless adequate steps are taken for the protection of the public or Federal employees.

(7)Fences and Barricades: Wherever practicable, the work area shall be fenced, barricaded, or otherwise blocked off from the public or building occupants to prevent unauthorized entry into the work area.

(8)Alternate Precautions: When the nature of the work prevents isolation of the work area and the public or building occupants may be in or pass through, under, or over the work area, alternate precautions such as the posting of signs, the use of signal persons, the erection of barricades, or similar protection around particularly hazardous operations shall be used as appropriate.

(9)Public Thoroughfare: When work is to be performed over a public thoroughfare, such as a sidewalk, road, lobby, or corridor, the thoroughfare shall be closed, if possible, or other precautions taken such as the installation of screens or barricades.

(10)Removal of Fences and Barricades: Fences and barricades shall be removed upon completion of the project, in accordance with local ordinance and to the satisfaction of the Contracting Officer or his/her representative(s).

H.39 SECURITY

The Contractor(s) shall be on the NIST grounds only between the hours of 7:00 a.m. and 6:30 p.m. on normal Federal work days. Should the Contractor(s) desire to work at times other than those specified above, the dates and hours must be scheduled at least seven (7) working days in advance and approved by the NIST Security Office through the Contracting Officer. After hours work will require a Government escort 100% of the time.

(1) Non U.S. citizens to be employed under this contract must:

(i) Have official legal status in the U.S.

(ii) Have continuously resided in the United States for the last five years.

(2) Prior to the employment of any foreign national at the contract work site, the Contractor must have such employees approved by the Servicing Security Office in consultation with the Department's Office of Security in accordance with the National Security Threat List. The name, country of citizenship, and employer for each Contractor and subcontractor's employee (visitor) working on the NIST site shall be submitted to the COTR for review three days prior to the work date.

The main gate at the National Institute of Standards and Technology site shall be used for material supply and personnel by the Contractor and subcontractors unless otherwise directed by the COTR. The gate will be open from 7:00 a.m. to 6:00 p.m., Monday through Friday inclusive. Special arrangements may be made through the Contracting Officer and National Institute of Standards and Technology for normal access, material supply, and/or overtime beyond these hours or on Holidays.

H.40 ENVIRONMENTAL PROTECTION

Disposal of Refuse: The Contractor is totally responsible for the removal of all refuse associated with this project. The Contractor shall remove all refuse associated with the construction operations from the site and dispose of it in accordance with the requirements of the local jurisdiction.

Disposal of Hazardous Wastes: Any hazardous wastes generated by the Contractor shall be properly controlled and disposed by the Contractor in accordance with applicable RCRA (40CFR) and COMAR (Title 26) regulations.

Construction Site Maintenance:

(1) The Contractor shall store all supplies and

H.40 (Continued)

equipment on project site so as to preclude mechanical and climatic damage. Maintain site in a neat and orderly manner.

(2) Contractor shall be responsible for maintaining any temporary structures in good repair and visually pleasant.

Noise Control: The Contractor shall comply with all applicable local laws, ordinances, and regulations relative to noise control. Equipment to be employed on this site shall not produce a noise level exceeding the following limits in dB(A) at a distance of 50 feet from the equipment under test.

Equipment:

Materials Handling

concrete mixer	85
concrete pump	82
crane	83
derrick	88

Stationary

pumps	76
generators	78
compressors	81

Impact

jack hammers	88
pneumatic tools	86

Other

saws	78
vibrators	76

Asbestos Material:

No asbestos containing material is expected to be encountered by the Contractor on this project. If material is encountered that looks suspicious but must be disturbed, do not touch the material and immediately notify the COTR in writing. Within fourteen (14) calendar days, the Government will perform laboratory tests to determine if there is asbestos. If asbestos is not a danger, the Contracting Officer will direct the Contractor to proceed without change. If the material encountered is asbestos and must be handled, the Contracting Officer will direct a change.

Disposal of fluorescent light fixtures:

The Contractor shall take all necessary safeguards to inspect the ballasts in fluorescent light fixtures for PCBs. Those with PCBs shall be turned over to the COTR for the disposition by the Government.

H.41 RESTRICTIONS ON EQUIPMENT

Do not use transmitters without prior approval.

H.42 SCHEDULING OF INSPECTIONS

When specified inspections or tests are required by the Contract Documents, the work involved shall not proceed beyond the point until such inspections or tests have been approved by the COTR. The Contractor shall inform the COTR of progress of the work and shall give the COTR a minimum of three (3) working days written notice of appropriate times for specified inspections and tests. The Contractor shall insure that the portion of work to be inspected is safe and accessible.

The Contractor and COTR shall jointly develop agendas subject to the COTR's approval for all inspections/tests. All required labor, materials, equipment, instruments, lubricants and incidentals necessary to perform these inspections/tests shall be furnished by the Contractor. All discrepancies and deficiencies observed during each inspection/test shall be noted and corrected and, if directed by the COTR, the inspection/test of equipment and systems previously found deficient shall be rescheduled and performed at no additional cost to the Government.

H.43 FIRE RETARDANT DUST BARRIERS

The polyethylene sheet used in dust barrier construction shall be a rated fire retardant material. Wood, if used, shall be treated so as to render it fire retardant. Product data for fire retardant polyethylene sheeting and wood shall be submitted for review and approval.

H.44 FIRE RETARDANT-TREATED WOOD

The Contractor shall not use wood other than fire retardant-treated wood inside any building. Fire retardant-treated wood shall be impregnated with chemicals by a pressure process in accordance with AWPA C20 and shall comply the testing requirements of ASTM E84. The material shall bear the identification of an approved agency and performance rating of the material. Fire retardant-treated wood shall be dried to a moisture content of 19 percent or less for lumber and 15 percent or less for plywood. Product data for fire retardant-treated wood shall be submitted for review and approval prior to its use on the project.

H.45 FIELD INVESTIGATIONS

Contractors shall adhere to the requirements of the "Guidelines for Contractors and A/E Firms Performing Site Investigations and Field Work at NIST" when they are performing site investigations and field work.

H.46 CERTIFICATION OF MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE)
COMPLIANCE

The contractor shall certify that all clearing, grading, construction and/or development of site work will be done pursuant to plans requiring MDE approval and that any responsible personnel involved in the construction project will have a certificate of attendance at a MDE approved training program for the control of sediment and erosion before beginning the project. The contractor shall identify the person responsible for MDE compliance and shall submit copy of the certificate of attendance at the MDE approved training program. The contractor shall allow periodic on-site evaluations by the State of Maryland, MDE inspectors.

PART II - CONTRACT CLAUSES

SECTION I - CONTRACT CLAUSES

I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
CLAUSES

NUMBER	TITLE	DATE
52.202-1	DEFINITIONS Alternate I (APR 1984)	OCT 1995
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.204-4	PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER	JUN 1996
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUL 1995
52.215-2	AUDIT AND RECORDS--NEGOTIATION	AUG 1996
52.215-33	ORDER OF PRECEDENCE	JAN 1986
52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE	JUL 1996
52.219-8	UTILIZATION OF SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS CONCERNS	OCT 1995
52.219-14	LIMITATIONS ON SUBCONTRACTING	DEC 1996
52.219-16	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN	OCT 1995
52.222-3	CONVICT LABOR	AUG 1996
52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION	JUL 1995
52.222-6	DAVIS-BACON ACT (DEVIATION)	FEB 1995
52.222-7	WITHHOLDING OF FUNDS	FEB 1988
52.222-8	PAYROLLS AND BASIC RECORDS	FEB 1988
52.222-9	APPRENTICES AND TRAINEES	FEB 1988
52.222-10	COMPLIANCE WITH COPELAND ACT REQUIREMENTS	FEB 1988
52.222-11	SUBCONTRACTS (LABOR STANDARDS)	FEB 1988
52.222-12	CONTRACT TERMINATION - DEBARMENT	FEB 1988

I.1 (Continued)

52.222-13	COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS	FEB 1988
52.222-14	DISPUTES CONCERNING LABOR STANDARDS	FEB 1988
52.222-15	CERTIFICATION OF ELIGIBILITY	FEB 1988
52.222-26	EQUAL OPPORTUNITY	APR 1984
52.222-27	AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION	APR 1984
52.222-36	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS	APR 1984
52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	JAN 1988
52.223-2	CLEAN AIR AND WATER	APR 1984
52.223-6	DRUG-FREE WORKPLACE	JAN 1997
52.223-14	TOXIC CHEMICAL RELEASE REPORTING	OCT 1996
52.225-5	BUY AMERICAN ACT - CONSTRUCTION MATERIALS	MAY 1997
52.225-11	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	OCT 1996
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	AUG 1996
52.227-4	PATENT INDEMNITY - CONSTRUCTION CONTRACTS	APR 1984
52.228-2	ADDITIONAL BOND SECURITY	JUN 1996
52.228-5	INSURANCE - WORK ON A GOVERNMENT INSTALLATION	JAN 1997
52.228-12	PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS	OCT 1995
52.228-15	PERFORMANCE AND PAYMENT BONDS-- CONSTRUCTION	SEP 1996
52.229-3	FEDERAL, STATE, AND LOCAL TAXES	JAN 1991
52.229-5	TAXES - CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO	APR 1984
52.232-5	PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS	MAY 1997
52.232-8	DISCOUNTS FOR PROMPT PAYMENT	MAY 1997
52.232-17	INTEREST	JUN 1996
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-27	PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS	MAY 1997
52.232-33	MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT	AUG 1996
52.233-1	DISPUTES	OCT 1995
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.236-2	DIFFERING SITE CONDITIONS	APR 1984
52.236-3	SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK	APR 1984
52.236-5	MATERIAL AND WORKMANSHIP	APR 1984

I.1 (Continued)

52.236-6	SUPERINTENDENCE BY THE CONTRACTOR	APR 1984
52.236-7	PERMITS AND RESPONSIBILITIES	NOV 1991
52.236-8	OTHER CONTRACTS	APR 1984
52.236-9	PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS	APR 1984
52.236-10	OPERATIONS AND STORAGE AREAS	APR 1984
52.236-11	USE AND POSSESSION PRIOR TO COMPLETION	APR 1984
52.236-12	CLEANING UP	APR 1984
52.236-13	ACCIDENT PREVENTION	NOV 1991
52.236-21	SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION Alternate I (APR 1984)	FEB 1997
52.236-23	RESPONSIBILITY OF THE ARCHITECT- ENGINEER CONTRACTOR	APR 1984
52.236-24	WORK OVERSIGHT IN ARCHITECT- ENGINEER CONTRACTS	APR 1984
52.236-25	REQUIREMENTS FOR THE REGISTRATION OF DESIGNERS	APR 1984
52.242-13	BANKRUPTCY	JUL 1995
52.243-4	CHANGES	AUG 1987
52.243-5	CHANGES AND CHANGED CONDITIONS	APR 1984
52.244-1	SUBCONTRACTS (FIXED-PRICE CONTRACTS)	FEB 1995
52.244-5	COMPETITION IN SUBCONTRACTING	DEC 1996
52.246-21	WARRANTY OF CONSTRUCTION	APR 1984
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) Alternate I (SEP 1996)	SEP 1996
52.249-10	DEFAULT (FIXED-PRICE CONSTRUCTION) Alternate II (APR 1984)	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

I.2 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

I.2 (Continued)

- (i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either--
 - (A) Exchanging the information covered by such subsections for anything of value; or
 - (B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or
- (ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.
- (b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.
- (c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

I.3 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS (DEVIATION NOV 1990) (JAN 1990)

(a) Definitions.

"Agency," as used in this clause, means executive agency as defined in 2.101.

"Covered Federal action," as used in this clause, means any of the following Federal actions:

- (a) The awarding of any Federal contract;
- (b) The making of any Federal grant;
- (c) The making of any Federal loan;
- (d) The entering into of any cooperative agreement; and,
- (e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

I.3 (Continued)

"Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

"Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

- (a) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.
- (b) A member of the uniformed services as defined in subsection 101(3), title 37, United States Code.
- (c) A special Government employee, as defined in section 202, title 18, United States Code.
- (d) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not

I.3 (Continued)

furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment," as used this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State," as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibitions.

(1) Section 1352 of title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure

I.3 (Continued)

if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

- (3) The prohibitions of the Act do not apply under the following conditions:

(i) Agency and legislative liaison by own employees.

- (A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.
- (B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
- (C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:
 - (1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.
 - (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action--
 - (1) Providing any information not specifically requested but necessary for an agency to

I.3 (Continued)

make an informed decision about initiation of a covered Federal action;

- (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
- (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

- (1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
- (2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or any extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a

I.3 (Continued)

person requesting or receiving a covered Federal action include consultants and trade associations.

- (B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.
- (C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- (D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

I.3 (Continued)

- (E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

- (iii) Selling activities by independent sales representatives.

The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply to the following sales activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter;

- (A) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
- (B) Technical discussions and other activities regarding the application or adoption of the person's products or services for an agency's use.

(c) Disclosure.

- (1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.
- (2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes--
 - (i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

I.3 (Continued)

- (ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - (iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or received any subcontract exceeding \$100,000 under the Federal contract.
- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.
- (d) Agreement. The Contractor agrees not to make any payment prohibited by this clause.
- (e) Penalties.
 - (1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
 - (2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.
- (f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

I.4 52.217-7 OPTION FOR INCREASED QUANTITY--SEPARATELY PRICED
LINE ITEM (MAR 1989)

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within 12 months after contract award. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

I.5 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED
AND VIETNAM ERA VETERANS (APR 1984) (DEVIATION)

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Openings that the Contractor proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

"Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means employment openings that the Contractor proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

"Suitable employment openings," as used in this clause-

(1) Includes, but is not limited to, openings that occur in jobs categorized as-

- (i) Production and nonproduction;
- (ii) Plant and office;
- (iii) Laborers and mechanics;
- (iv) Supervisory and nonsupervisory;
- (v) Technical; and

I.5 (Continued)

- (vi) Executive, administrative, and professional positions compensated on a salary basis of less than \$25,000 a year; and
 - (2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.
- (b) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a special disabled or Vietnam Era veteran. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam Era veterans without discrimination based upon their disability or veterans' status in all employment practices such as-
- (i) Employment;
 - (ii) Upgrading;
 - (iii) Demotion or transfer;
 - (iv) Recruitment;
 - (v) Advertising;
 - (vi) Layoff or termination;
 - (vii) Rates of pay or other forms of compensation; and
 - (viii) Selection for training, including apprenticeship
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.
- (c) Listing openings. (1) The Contractor agrees to list all suitable employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not

I.5 (Continued)

connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

- (2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.
 - (3) The listing of suitable employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.
 - (4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.
 - (5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government's interest.
- (d) Applicability. (1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.
- (2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that

I.5 (Continued)

opening.

- (e) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.
- (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.
- (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam Era veterans.
- (f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- (g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

I.6 52.228-11 PLEDGES OF ASSETS (FEB 1992)

- (a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--
 - (1) Pledge of assets; and
 - (2) Standard Form 28, Affidavit of Individual Surety.
- (b) Pledges of assets from each person acting as an individual surety shall be in the form of--
 - (1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2

I.6 (Continued)

(except see 28.203-2(b)(2) with respect to Government securities held in book entry form) and/or;

- (2) A recorded lien on real estate. The offeror will be required to provide--
- (i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);
 - (ii) Evidence of the amount due under any encumbrance shown in the evidence of title;
 - (iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

I.7 52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1996)

- (a) Irrevocable letter of credit (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay a stated amount of money on demand to the Government (the beneficiary), until the expiration date of the letter. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.
- (b) If the offeror intends to use an ILC in lieu of a bid bond, or to support other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.
- (c) The letter of credit shall be irrevocable, unconditional, issued by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--
 - (1) If used as a bid guarantee, the ILC shall expire no

I.7 (Continued)

earlier than 60 days after the close of the bid acceptance period;

- (2) If used to secure a performance or payment bond, the offeror/Contractor may submit an ILC to cover the entire period of performance or may submit an ILC with an initial expiration date which is a minimum period of one year from the date of issuance, with a provision which states that the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of performance is completed. The final expiration date shall be:
- (i) For contracts subject to the Miller Act, the later of--
 - (A) One year following the expected date of final payment;
 - (B) For performance bonds only, until completion of any warranty period; or
 - (C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.
 - (ii) For contracts not subject to the Miller Act, the later of--
 - (A) 90 days following final payment; or
 - (B) Until completion of any warranty period for performance bonds only.
 - (d) The ILC shall be issued or confirmed by a federally insured financial institution rated investment grade or higher. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least \$25 million in the past year.
 - (e) The following format shall be used by the issuing financial institution to create an ILC:

[Issuing Financial Institution's Letterhead
or Name and Address]

Issue Date _____

I.7 (Continued)

IRREVOCABLE LETTER OF CREDIT NO. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____

(For reference only)

TO: [U.S. Government agency]

[U.S. Government agency's address]

1. We hereby establish this irrevocable, unconditional, and transferable Letter of Credit in your favor for one or more drawings up to United States \$_____. This Letter of Credit is payable at [issuing financial institution's and, if any, confirming financial institution's] office at [issuing financial institution's address and, if any, confirming financial institution's address] and expires with our close of business on _____, or any automatically extended expiration date.
2. We hereby undertake to honor your or transferee's sight draft(s) drawn on issuing and, if any, confirming financial institution, for all or any part of this credit that is presented at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.
3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.
4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds.
5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution, if any, otherwise state of issuing financial

I.7 (Continued)

institution].

6. If this credit expires during an interruption of business of this financial institution as described in Article 19 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 calendar days after the resumption of our business.

Sincerely,

[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC:

_____ [Confirming
Financial Institution's Letterhead or Name and Address]--

_____, 19__

Our Letter of Credit

Advice Number _____

Beneficiary: _____

[U.S. Government agency]

Issuing Financial Institution: _____

Issuing Financial Institution's LC No.: _____

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by _____ [name of issuing financial institution] for drawings of up to United States dollars _____/U.S. \$_____ and expiring with our close of business on _____ [the expiration date], or any automatically extended expiration date.
2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at _____.
3. We hereby undertake to honor sight draft(s) drawn under the Letter of Credit and this Confirmation if presented at our offices as specified herein.
4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

I.7 (Continued)

- (a) At least sixty (60) days prior to any such expiration date we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or
- (b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

- 5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution].
- 6. If this confirmation expires during an interruption of business of this financial institution as described in Article 19 of UCP, we specifically agree to effect payment if this credit is drawn against within 30 calendar days after the resumption of our business.

Sincerely,

[Confirming financial institution]

- (g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

SIGHT DRAFT

[City, State]

_____, 19_____
[Name and address of financial institution]

Pay to the order of _____
[Beneficiary Agency] _____

the sum of United States \$_____
This draft is drawn under
Irrevocable Letter of Credit No. _____

[Beneficiary Agency]
By: _____

I.8 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.
- (b) The use in this solicitation or contract of any Commerce Acquisition Regulation clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J - LIST OF ATTACHMENTS

J.1 LIST OF ATTACHMENTS-STATEMENT OF WORK/SPECIFICATIONS
THAT ARE HEREBY MADE A PART OF THIS SOLICITATION AND
ANY RESULTANT CONTRACT

- Attachment 1 - Statement of Architect-Engineering Services and Construction for the Environmental Improvements at the National Institute of Standards and Technology, dated May 1997, (18 pages).
- Attachment 2 - Guidelines for Contractors and A/E Firms Performing Site Investigations and Fieldwork at National Institute of Standards and Technology, dated February 20, 1997, (6 pages).
- Attachment 3 - National Institute of Standards and Technology, South-West Pond Option Specifications, Volume 1 of 1, dated April 1997, (186 pages).
- | Attachment 4 - Drawing Numbers | Title |
|--------------------------------|--|
| 2-297 | Cover Sheet, dated April 9, 1997 |
| 2-298 | Site Orientation Plan Legend and Notes, dated April 9, 1997 |
| 2-299 | Sediment/Erosion Control Notes and Details, dated April 9, 1997 |
| 2-300 | Storm Water Management Pond Plan, dated April 9, 1997 |
| 2-301 | Storm Water Management Pond, Sections and Details, dated April 9, 1997 |
| 2-302 | Storm Water Management Pond Details April 9, 1997 |
- Attachment 5 - U.S. Department of Labor, General Decision Number MD970045, dated 04/25/97, 5 pages.

NOTE - ATTACHMENTS 1 THROUGH 5 ARE NOT AVAILABLE THROUGH THE INTERNET, HOWEVER, THE ATTACHMENTS ARE AVAILABLE IN HARD COPY IF REQUESTED IN WRITING.

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORSK.1 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION
(APR 1985)

(a) The offeror certifies that--

- (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

- (1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision

[Insert full name of person(s) in the offeror's organization responsible for determining the

K.1 (Continued)

prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies subparagraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.2 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING
PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
DEVIATION (JAN 1990)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that--

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and

K.2 (Continued)

submit with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer, and

- (3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend this disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

K.3 52.204-3 TAXPAYER IDENTIFICATION (MAR 1994)

(a) Definitions.

"Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the offeror in reporting income tax and other returns.

- (b) All offerors are required to submit the information required in paragraphs (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to the reporting requirements described in FAR 4.903, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

- (c) Taxpayer Identification Number (TIN).

[] TIN:_____.

K.3 (Continued)

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

☐ Other. State basis. _____

(d) Corporate Status.

☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

☐ Other corporate entity;

☐ Not a corporate entity:

☐ Sole proprietorship

☐ Partnership

☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(e) Common Parent.

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this clause.

☐ Name and TIN of common parent:

Name _____

TIN _____

K.4 CONTRACTOR IDENTIFICATION NUMBER--DATA UNIVERSAL
NUMBERING SYSTEM (DUNS) NUMBER (DEC 1996)

- (a) Contractor Identification Number, as used in this provision, means "Data Universal Numbering System (DUNS) number," which is a nine-digit number assigned by Dun and Bradstreet Information Services.
- (b) Contractor identification is essential for complying with statutory contract reporting requirements. Therefore, the offeror is requested to enter, in the block with its name and address on the Standard Form 33 or similar document, the annotation "DUNS" followed by the DUNS number which identifies the offeror's name and address exactly as stated in the offer.
- (c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:
 - (1) Company name.
 - (2) Company address.
 - (3) Company telephone number.
 - (4) Line of business.
 - (5) Chief executive officer/key manager.
 - (6) Date the company was started.
 - (7) Number of people employed by the company.
 - (8) Company affiliation.
- (d) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at [http://www.dbisna.com/dbis/customer /custlist.htm](http://www.dbisna.com/dbis/customer/custlist.htm). If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@dbisma.com.

K.5 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS
(MAR 1996)

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that--
 - (i) The Offeror and/or any of its Principals--
 - (A) Are () are not () presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

K.5 (Continued)

(B) Have () have not (), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are () are not () presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has () has not (), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as

K.5 (Continued)

requested by the Contracting Officer may render the Offeror nonresponsible.

- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

K.6 52.215-6 TYPE OF BUSINESS ORGANIZATION
(JUL 1987)

The offeror or quoter, by checking the applicable box, represents that--

- (a) It operates as ☐ a corporation incorporated under the laws of the State of _____, ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, or ☐ a joint venture.
- (b) If the offeror or quoter is a foreign entity, it operates as ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a joint venture, or ☐ a corporation, registered for business in _____ (country).

K.7 52.215-11 AUTHORIZED NEGOTIATORS (APR 1984)

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations: [list names, titles, and telephone numbers of the authorized negotiators].

K.8 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (JAN 1997)

- (a) (1) The standard industrial classification (SIC) code for this acquisition is 1629.
- (2) The small business size standard is no more than \$17.0 million average annual receipts for an offeror's preceeding 3 fiscal years.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b) Representations. (1) The offeror represents as part of its offer that it [] is, [] is not a small business concern.
- (2) (Complete only if offeror represented itself as a small business concern in block (b)(1) of this section.) The offeror represents as part of its offer that it [] is, [] is not a small disadvantaged business concern.
- (3) (Complete only if offeror represented itself as a small business concern in block (b)(1) of this section.) The offeror represents as part of its offer that it [] is, [] is not a women-owned small business concern.
- (c) Definitions. "Joint venture," for purposes of a small disadvantaged business (SDB) set-aside or price evaluation preference (as prescribed at 13 CFR 124.321), is a concern that is owned and controlled by one or more socially and economically disadvantaged individuals entering into a joint venture agreement with one or more business concerns and is considered to be affiliated for size purposes with such other concern(s). The combined annual receipts or employees of the

K.8 (Continued)

concerns entering into the joint venture must meet the applicable size standard corresponding to the SIC code designated for the contract. The majority of the venture's earnings must accrue directly to the socially and economically disadvantaged individuals in the SDB concern(s) in the joint venture. The percentage of the ownership involvement in a joint venture by disadvantaged individuals must be at least 51 percent.

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

"Small disadvantaged business concern," as used in this provision, means a small business concern that (1) is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and (2) has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities, which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR part 124.

"Women-owned small business concern", as used in this provision, means a small business concern--

- (1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
 - (2) Whose management and daily business operations are controlled by one or more women.
- (d) Notice. (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

K.8 (Continued)

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small or small disadvantaged business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

- (i) Be punished by imposition of a fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

K.9 52.222-21 CERTIFICATION OF NONSEGREGATED FACILITIES
(APR 1984)

- (a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.
- (b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.
- (c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will--
 - (1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
 - (2) Retain the certifications in the files; and

K.9 (Continued)

- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

K.10 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS
(APR 1984)

The offeror represents that--

- (a) It [] has, [] has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;
- (b) It [] has, [] has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

K.11 52.223-1 CLEAN AIR AND WATER CERTIFICATION (APR 1984)

The Offeror certifies that--

- (a) Any facility to be used in the performance of this proposed contract is [], is not [] listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- (b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA

K.11 (Continued)

List of Violating Facilities; and

- (c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

K.12 52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)

- (a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

- (b) By signing this offer, the offeror certifies that--

- (1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or--
- (2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (Check each block that is applicable.)
- [] (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);
- [] (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);
- [] (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

K.12 (Continued)

- [] (iv) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in Section 19.102 of the Federal Acquisition Regulations; or
- [] (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

K.13 52.225-20 BUY AMERICAN ACT--NORTH AMERICAN FREE TRADE
 AGREEMENT IMPLEMENTATION ACT--BALANCE OF PAYMENTS
 PROGRAM CERTIFICATE (JAN 1997)

- (a) The offeror certifies that each end product being offered, except those listed in paragraph (b) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

(b) Excluded End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

(List as necessary)

- (c) Offers will be evaluated by giving certain preferences to domestic end products or NAFTA country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify and certify below those excluded end products that are NAFTA country end products. Products that are not identified and certified below will not be deemed NAFTA country end products.

The offeror certifies that the following supplies qualify as "NAFTA country end products" as that term is defined in the clause entitled "Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program.":

K.13 (Continued)

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

(List as necessary)

- (d) Offers will be evaluated in accordance with Part 25 of the Federal Acquisition Regulation. In addition, if this solicitation is for supplies for use outside the United States, an evaluation factor of 50 percent will be applied to offers of end products that are not domestic or NAFTA country end products.

K.14 CERTIFICATION

I hereby certify that the responses to the above Representations, Certifications and other statements are accurate and complete.

Signature: _____

Title : _____

Date : _____

SECTION L - INSTRUCTIONS, CONDITIONS, AND
NOTICES TO OFFERORS

L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED
BY REFERENCE (JUN 1988)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
PROVISIONS

NUMBER	TITLE	DATE
52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE	APR 1991
52.214-35	SUBMISSION OF OFFERS IN U.S. CURRENCY	APR 1991
52.215-5	SOLICITATION DEFINITIONS	JUL 1987
52.215-7	UNNECESSARILY ELABORATE PROPOSALS OR QUOTATIONS	APR 1984
52.215-8	AMENDMENTS TO SOLICITATIONS	DEC 1989
52.215-9	SUBMISSION OF OFFERS	MAR 1997
52.215-10	LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS	MAY 1997
52.215-12	RESTRICTION ON DISCLOSURE AND USE OF DATA	APR 1984
52.215-14	EXPLANATION TO PROSPECTIVE OFFERORS	APR 1984
52.215-15	FAILURE TO SUBMIT OFFER	MAY 1997
52.215-16	CONTRACT AWARD Alternate II (OCT 1995)	OCT 1995
52.215-38	PREPARATION OF OFFERS--CONSTRUCTION	JAN 1991
52.225-12	NOTICE OF BUY AMERICAN ACT REQUIREMENT--CONSTRUCTION MATERIALS	MAY 1997

L.2 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm-fixed price contract resulting from this solicitation.

L.3 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY

In accordance with FAR 52.222-23, Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity, the following terms apply:

The covered area is Maryland, Montgomery County, Gaithersburg.

L.3 (Continued)

Goals:

Trade		GOALS	
		Minority Participation	Female Participation
All	28.0%	6.9%	

L.4 1352.233-2 SERVICE OF PROTESTS
(DEVIATION FAR 52.233-2) (AUG 1996)

- (a) Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

National Inst. of Stds. & Technology
Acquisition and Assistance Division
Building 301, Room B117
Gaithersburg, MD 20899
ATTN: Pauline E. Mallgrave

- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

L.5 52.237-1 SITE VISIT (APR 1984)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

L.6 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.
- (b) The use in this solicitation or contract of any Commerce Acquisition Regulation provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

L.7 REGULATORY NOTICE

Offerors are advised that certain provisions and clauses identified with a Commerce Acquisition Regulation (CAR) notation for identification purposes, have not yet been incorporated into the CAR. However, all of these items are binding for this acquisition and will eventually be contained in the CAR at Part 13 of Title 48 of the Code of Federal Regulations.

L.8 INQUIRIES

Inquiries and all correspondence concerning this solicitation document should be submitted in writing to the issuing office. OFFERORS ARE INSTRUCTED SPECIFICALLY TO CONTACT ONLY THE PERSON CITED IN BLOCK 9 OF SF1442 ABOUT ANY ASPECT OF THIS REQUIREMENT PRIOR TO CONTRACT AWARD.

L.9 AMENDMENTS TO PROPOSALS

Any changes to a proposal made by the offeror after its initial submittal shall be accomplished by replacement pages. Changes from the original page shall be indicated on the outside margin by vertical lines adjacent to the change. The offeror shall include the date of the amendment at the bottom of the changed pages.

L.10 SET-ASIDE INFORMATION

This solicitation includes the following set-aside criteria:

- (a) Percent of the set-aside: 100%
- (b) Type of set-aside: Total, Small Business

L.11 PRE-BID/PRE-PROPOSAL CONFERENCE AND SITE VISIT

The Government is planning a preproposal conference and site visit during which potential contractors may obtain a better understanding of the work required.

Offerors are strongly urged to visit this site during the conference to fully inform themselves about the location and conditions under which the work is to be performed.

Offerors are encouraged to submit all questions in writing at least five (5) days prior to the conference. Questions will be considered at any time prior to, or during, the conference; however, offerors will be asked to confirm verbal questions in writing. Subsequent to the conference an amendment containing an abstract of the questions and answers, and a list of attendees, will be disseminated to all participants.

In order to facilitate conference preparations it is requested

L.11 (Continued)

that the person named on the Standard Form 1442 of this solicitation be contacted and advised of the number of persons who will attend.

The Government assumes no responsibility for any expense incurred by an offeror prior to contract award.

Offerors are cautioned that, notwithstanding any remarks or clarifications given at the conference, all terms and conditions of the solicitation remain unchanged unless they are changed by amendment. If the answers to conference questions, or any solicitation amendment, create ambiguities it is the responsibility of the offeror to seek clarification prior to submitting an offer.

The conference will be held:

Date: June 5, 1997)

Time: 9:30 AM EST

Location: National Institute of Standards & Technology
Building 301, Room B117
Gaithersburg, MD 20899

L.12 DEPARTMENT OF COMMERCE AGENCY-LEVEL PROTEST
PROCEDURES LEVEL ABOVE THE CONTRACTING
OFFICER (DEC 1996)

I. PURPOSE: To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103).

On October 25, 1995, President Clinton signed Executive Order No. 12979 which directs heads of executive agencies to develop administrative procedures for resolving protests to awards of procurement contracts within their agencies at a level above the contracting officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive).

The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a level above

L.12 (Continued)

the contracting officer.

II. DEFINITIONS:

An agency protest is one that may be filed with either the contracting officer or the protest decision authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102. A day is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

III. PROCEDURES:

- a. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the Department. Protests shall be addressed to:

Mr. Jorge R. Urrutia
Director of Administration
National Institute of Standards and Technology
Building 101, Room A1105
Gaithersburg, Maryland 20899
FAX No. 301-926-7203

The outside of the envelope or beginning of the FAX transmission must be marked "Agency-level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible contracting officer and a copy to the addressee indicated below:

Contract Law Division
Office of the Assistant General Counsel for Finance and
Litigation
Department of Commerce, Room H5882
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230
(FAX Number 202-482-5858)

- b. Election of forum: While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the General Accounting Office (GAO) or any other external fora. If the protester has already filed

L.12 (Continued)

with the GAO or other external fora, the procedures described here may not be used.

1. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.
2. To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.
3. To be complete, protests must contain the following information:
 - (i) the protester's name, address, telephone number, and fax number
 - (ii) the solicitation or contract number, name of contracting office and the contracting officer
 - (iii) a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced
 - (iv) copies of relevant documents supporting protester's statement
 - (v) a request for ruling by the agency
 - (vi) statement as to form of relief requested
 - (vii) all information establishing that the protester is an interested party for the purpose of filing a protest
 - (viii) all information establishing the timeliness of the protest.

All protests must be signed by an authorized representative of the protester.

L.12 (Continued)

Within 14 days after the protest is filed, the contracting officer will prepare an administrative report that responds to the issues raised by the protester and addresses any other issues, which, even if not raised by the protester, have been identified by agency officials as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. When an extension is granted, the protest decision authority will notify the protester and all interested parties within 1 day of the decision to grant the extension.

Unless an extension is granted, the protest decision authority will issue a decision within 35 days of the protest. The protest decision authority's final decision will be binding on the Department of Commerce and not subject to further appeals.

The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by certified mail, return receipt requested with information copies to the applicable contracting office and Office of Acquisition Management.

Effect of protest on award and performance:

When a protest is filed prior to award, a contract may not be awarded unless authorized by the Head of the Contracting Activity (HCA) based on a written finding that:

- (i) the supplies or services are urgently required,
- (ii) delivery or performance would be unduly delayed by failure to make the award promptly, or
- (iii) a prompt award will be in the best interest of the Government.

When a protest is filed within 10 days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.1004, whichever is later, the contracting officer shall immediately suspend performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the

L.12 (Continued)

protest, based on a written finding that:

- (i) contract performance would be in the best interest of the United States, or
- (ii) urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

IV. REMEDIES:

The protest decision authority may grant one or more of the following remedies:

- (1) terminate the contract,
- (2) re-compete the requirement,
- (3) issue a new solicitation,
- (4) refrain from exercising options under the contract,
- (5) award a contract consistent with statutes and regulations,
- (6) amend the solicitation provisions which gave rise to the protest and continue with the procurement,
- (7) such other remedies as the decision-maker may determine are necessary to correct a defect. Designated Protest Decision Authority for Operating Unit as follows:

L.13 PROPOSAL PREPARATION INSTRUCTIONS

1. GENERAL INSTRUCTIONS

- A. Offerors are required to submit information in their proposals which corresponds directly to the evaluation criteria in Section M of this solicitation. Specific requirements are detailed below.
- B. The proposal shall be prepared in two parts:
 - 1) Technical Proposal
 - 2) Price Proposal

Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently from evaluation of the others. No reference to price shall be contained in the technical proposal.

- C. The envelope(s) containing the proposal shall be clearly

L.13 (Continued)

labeled with the following information:

- 1) Solicitation No.: 52SBNB7C1113
- 2) Project Title: Design and Construction for
Environmental Improvements
- 3) Offeror's Name:

2. SPECIFIC INSTRUCTIONS

TECHNICAL PROPOSAL FORMAT

- A. The technical proposal shall include a description of the proposed method and/or technique to accomplish the base requirement and each option.
- B. The technical proposal shall include a one-half page description for all projects completed over the past five years, including contracts with the federal government, and contracts that are similar to the scope addressed by this requirement. Include the names and phone numbers of point of contact references for all past performance references. The description shall include information on both the prime and the subcontractors.
- C. The technical proposal shall include Standard Forms 254 and 255, and one page resumes for the proposed personnel.
- D. The technical proposal shall include a bar chart or a time-scaled logic diagram indicating proposed design and construction activities so as to demonstrate an understanding of the activities of the project. The diagram should include design, approval, procurement, and construction activities.

3. PRICE PROPOSAL FORMAT

- A. Bottom-line Price Information: Price shall be included on the following forms:
 - 1) Standard Form 1442, Solicitation, Offer, and Award (Construction, Alternation, or Repair) with block 14 through 20 completed by the offeror. The price proposed on Block 17 should be inclusive of all options.
 - 2) Section B, Supplies or Services and Prices/Costs, with line item prices inserted by the offeror.

L.14 TECHNICAL QUESTIONS

Offerors must submit all technical questions concerning this solicitation in writing to the Contract Specialist named on the cover

L.14 (Continued)

page of the solicitation. NIST will answer questions which may affect offers in an amendment to the solicitation. NIST will not reference the source of the questions.

SECTION M - EVALUATION FACTORS FOR AWARD

M.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED
BY REFERENCE (JUN 1988)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
PROVISIONS

NUMBER	TITLE	DATE
52.217-5	EVALUATION OF OPTIONS	JUL 1990

M.2 EVALUATION FACTORS FOR AWARD

1. EVALUATION OF PROPOSALS

- A. INITIAL EVALUATION OF OFFERS - An evaluation plan has been established to evaluate the factors set forth in the Evaluation Criteria stated below, and all offers received will be evaluated by a team of Government personnel in accordance with the plan. Following evaluation, the Contracting Officer will make the determination as to which offers are in the "Competitive Range". The competitive range shall be determined on the basis of the technical merit ratings and the proposed price to the Government, and shall include all offers which have a reasonable chance of being selected for award. The initial number of offers considered as being within the competitive range may be reduced when, as a result of the written or oral discussions, and such offer has been determined to no longer have a reasonable chance of being selected for award. HOWEVER, OFFERORS ARE CAUTIONED TO SUBMIT PROPOSALS ON THE MOST FAVORABLE BASIS, SINCE THE GOVERNMENT MAY ELECT TO MAKE AN AWARD WITHOUT FURTHER DISCUSSIONS OR NEGOTIATIONS.
- B. DISCUSSION/BEST AND FINAL OFFERS - All offerors selected to participate in discussions shall be advised of any deficiencies in their offer, and shall be offered a reasonable opportunity to correct or resolve the deficiencies and to submit such price or cost, technical or other revisions to their offer that may result from the discussions. At the conclusion of discussions, a final common cut-off date which allows a reasonable opportunity for submission of written "best and final" offers shall be established, and those

M.2 (Continued)

offerors selected to remain in the competitive range will be notified to submit best and final offers.

- C. FINAL EVALUATION OF OFFERS - The initial evaluation of the offers within the competitive range may be revised in light of any additional information/data provided during subsequent discussion and/or furnished with "Best and Final" offer.

M.3 EVALUATION CRITERIA AND AWARD CRITERIA

Award of the contract resulting from this solicitation will be made to the proposal which offers the best value to the Government from a technical and price standpoint. The Government reserves the right to determine the proposal which offers the greatest value to the Government.

Although technical factors are considered significantly more important than price factors, price becomes more important as proposals are more equal technically.

Only one award from this solicitation will be made.

M.4 TECHNICAL

All proposals will be evaluated based on the following factors, listed in descending order of importance, with Factors A and B being of equal value and individually worth slightly less than one-third of the total points; Factor C being worth approximately one-fourth of the total points; Factor D being worth approximately one-third of Factor A; and Factor E being worth approximately one-half of Factor D.

TECHNICAL REQUIREMENTS

Factor A - Will be evaluated on the offeror's proposed Methods/Techniques to perform the requirement.

Factor B - Will be evaluated on the prime contractor and subcontractor's past performance on similar or related projects.

Factor C - Will be evaluated on the combined experience of the personnel proposed for this required.

Factor D - Will be evaluated on the prime contractor and subcontractor's past performance on work with the federal government.

Factor E - Will be evaluated on the offeror's proposed ability to meet the schedule requirements.

M.5 PRICE

M.5 (Continued)

This factor includes an evaluation of the prices proposed by the offeror for performing all the requirements of the contemplated contract as set forth in the solicitation. The offeror's proposed price will be evaluated as prescribed by Section 15.805 of the Federal Acquisition Regulation to ensure a fair and reasonable price. This may also include information from the Defense Contract Audit Agency, Government Technical personnel, and other sources.

M.6 CONTRACTOR RESPONSIBILITY

It is the policy of the Department of Commerce that contracts shall be awarded only to responsible, prospective contractors. To be determined responsible, a prospective contractor must:

- a. Have adequate financial resources to perform the contractor, or the ability to obtain them;
- b. Be able to comply with the performance schedule, taking into consideration all existing commercial and governmental business commitments;
- c. Have a satisfactory performance record;
- d. Have a satisfactory record of integrity and business ethics;
- e. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, and quality assurance measures applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors;
- f. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

M.7 PREAWARD SURVEY

If the offer submitted in response to this RFP is favorably considered, the Government reserves the right for a survey team to visit the offeror's facility for the purpose of determining the technical and financial ability to perform. A current financial statement and other data pertinent to this purpose should be available at the time the team makes the visit.